

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2685 OF 2005

Ajitrao Hiralal Thakur & anr. ... Petitioners

V/s

Shabbir M. Butt & ors. ... Respondents

Mr. N.B. Jadhav for the petitioners.

Mr. M.S. Karnik i/by P.V. Vare for the Resp.No.1.

Ms. Mamta B. Sadh, A.G.P. for the Resp.No.2 to 4.

CORAM: P.V. KAKADE, J.

DATED: 5TH DEC., 2005

P.C.:

1. Heard the learned counsel for the petitioner and the respondent No.1 and learned A.G.P. for the respondent Nos. 2 to 4.

2. The petition is filed for quashing of the impugned order dated 7.7.2005 passed by the respondent No.3 rejecting the Revision Application No. RVA 2005/CR-2/15-C by the respondent No.4 The Secretary of Maharashtra Co-operation Department, allowing and confirming the order passed by the respondent No.3

allowing the appeal of the present respondent No.1 and setting aside the impugned order in that appeal dated 2.6.2004 passed by the respondent No.2 the Deputy Registrar of Co-op. Societies, under Sec. 78 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as the said Act), by his order dated 22.11.2004.

3. The revision application which was rejected by the respondent No.4 was filed under Sec. 154 of the said Act against the order dated 22.11.2004.

4. Brief facts of the case are -

Respondent No.2 vide his order dated 29.3.2004 directed the Nutan Nagar Premises Co-op. Society to remove the respondent No.1 from Managing Committee of the said Society, on the ground that he was not a member of the Society. Respondent No.1 challenged the said order before the respondent No.3 by way of revision which was duly allowed. The applicants in the revision application before the respondent No.4 complained against the respondent No.1 and others on the ground of default under Sec.73 FF(i), and 73(1AB) of the said Act. Show cause notice under Sec.78(1) was issued by the

respondent No.2 against respondent No.1 and other members of the Managing Committee of the said Society and after holding an enquiry, the respondent No.2, vide his order dated 2.6.2004 superseded the Managing Committee of the Society and appointed Administrator.

Being aggrieved by this order, respondent No.1 filed an appeal under Sec.152 of the said Act which was allowed by way of order dated 22.11.2004. Against the said order, the petitioners preferred revision application before the respondent No.4, who, on merits, came to the conclusion that the order passed by the respondent No.3 dated 22.11.2004 was legal and proper and, therefore, did not call for interference.

5. After hearing both parties and perusing the record, I am satisfied that the ground on which the Managing Committee of Nutan Nagar Premises Co-op. Society Ltd. was superseded by respondent No.2 vide his order dated 2.7.2004 did not warrant action as contemplated under Sec.78 of the said Act. In fact, the respondent No.2 could have issued directions under Sec.79 of the said Act but it was the Society to rectify the defect as held by the respondent No.4 in the impugned order. The learned counsel for the petitioner sought to raise

question regarding the validity of election of respondent No.1 under the provisions of Sec. 27(3A) of the said Act. However, in this regard, it must be noted that such dispute falls under Sec. 91 of the said Act which deals with the dispute pertaining to the election of the committee or its office bearers and, therefore, the petitioner was required to seek the remedy under the said provision.

6. In the result, I do not find any illegality committed by the respondent No.4 while passing the order dated 7th July, 2005 while rejecting the revision application filed by the petitioners. Hence, there is no merit in the petition and it stands dismissed with no order as to costs.

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